

STATE OF MICHIGAN  
COURT OF APPEALS

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DEAN VALENTE, MARK VALENTE III,  
VALENTE IRREVOCABLE LIVING TRUSTS,  
JAMES VALENTE, RICHARD VALENTE, and  
MATILDE VALENTE TESTAMENTARY  
TRUST,

UNPUBLISHED  
July 31, 2007

Plaintiffs-Appellees,

v

No. 266638  
Macomb Probate Court  
LC No. 99-162001-CZ

MARCO VALENTE, JR.,

Defendant,

and

RAYMOND G. GLIME,

Appellant.

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Before: Servitto, P.J., and Jansen and Schuette, JJ.

PER CURIAM.

Appellant, Raymond G. Glime, appeals as of right from the probate court's denial of his motion for summary disposition. The motion was based on Glime's claim that the probate court lacked personal jurisdiction over him to require him to execute a quitclaim deed because he was not a party to the action. We vacate the trial court's October 31, 2005 order and remand this matter for joinder of Glime.

I. FACTS

This is the second appeal arising from defendant Marco Valente, Jr.'s, mishandling and misuse of irrevocable trusts that he created for his children using an inheritance from his mother. In a prior appeal, our Supreme Court affirmed the trial court's determination, following a jury trial in probate court, that plaintiffs were entitled to certain real property in Pensacola, Florida, but vacated a portion of the trial court's judgment that purported to transfer title to the property to plaintiffs, stating, "[w]hile the probate court has authority to order defendant to execute and record a deed to the property, and to enforce that order, it lacks jurisdiction to effect a transfer of title to out-of-state property." *Valente v Valente*, 474 Mich 860; 703 NW2d 799 (2005). While

the prior appeal was pending, defendant Marco Valente, Jr., transferred legal title of the Pensacola property to his former attorney, Raymond G. Glime. On remand, the probate court granted plaintiffs' petition for an order requiring both Marco and Glime to execute a quitclaim deed conveying the property to Dean Valente and Mark Valente III, as successor co-trustees of the Valente Irrevocable Living Trust. Glime now appeals.

## II. STANDARD OF REVIEW

Probate court procedure is governed by rules applicable to other civil proceedings, except as modified in chapter 5 of the Michigan Court Rules, MCR 5.001 *et. seq.* See MCR 5.001(A). Summary disposition is proper under MCR 2.116(C)(1) if a court lacks jurisdiction over the person. This Court reviews the motion, as well as the question of personal jurisdiction, *de novo*. *Lease Acceptance Corp v Adams*, 272 Mich App 209, 218; 724 NW2d 724 (2006).

## III. ANALYSIS

Personal jurisdiction deals with a court's authority to bind parties to the action. *People v Eaton*, 184 Mich App 649, 652-653; 459 NW2d 86 (1990), *aff'd* 439 Mich 915 (1992). It is distinguishable from subject-matter jurisdiction, which encompasses a court's power to act. *Id.* Although a lack of subject-matter jurisdiction renders a judgment void, certain procedural irregularities, not amounting to a lack of jurisdiction over the person or subject matter, may make a judgment voidable. *Jackson City Bank & Trust Co v Fredrick*, 271 Mich 538, 545; 260 NW 908 (1935).

Although Glime frames the issue in this case as one of the probate court's lack of personal jurisdiction over him, we believe the real issue here is joinder. This case does not involve a situation where a person claims insufficient contacts with Michigan for a Michigan court to exercise personal jurisdiction. See *Oberlies v Searchmont Resort, Inc*, 246 Mich App 424, 427; 633 NW2d 408 (2001). To the contrary, Glime appears to be a Michigan resident and, therefore, is subject to the personal jurisdiction of the probate court. See MCL 600.701(2) (authorizing Michigan courts to exercise general personal jurisdiction over individuals domiciled in Michigan at the time process is served). Therefore, while we conclude that the trial court lacked the authority to force Glime to execute a quitclaim deed to the property, we do so because Glime was not joined as a party, not because the probate court lacked personal jurisdiction over him.

Under MCR 2.205(A), joinder is required of all parties "having such interests in the subject matter of an action that their presence in the action is essential to permit the court to render complete relief." Further, Michigan courts generally lack the authority to bind a person who has not been named as a party to the action, *Capitol S&L Co v Standard S&L Ass'n of Detroit*, 264 Mich 550, 553; 250 NW 309 (1933); *First Nat'l Bank of Mt Clemens v Croman*, 288 Mich 370, 375; 28 NW 912 (1939); *Spurling v Battista*, 76 Mich App 350, 353-354; 256 NW2d 788 (1977), and judgments entered against a nonparty are generally null and void, 46 Am Jur 2d, Judgment, §86, pp 458-459; 49 CJS, Judgments, §29, pp 80-81. Therefore, because Glime was not joined as a party to the action, the trial court was without authority to force him to execute a quitclaim deed, and the order directing him to do so must be vacated. However, misjoinder or nonjoinder is not a ground for dismissal of an action. MCR 2.207. Therefore, we remand this

matter to the probate court for joinder of Attorney Glime under MCR 2.205(B) and for further proceedings consistent with this opinion.

We vacate the probate court's October 31, 2005 order and remand this matter for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Deborah A. Servitto  
/s/ Kathleen Jansen  
/s/ Bill Schuette